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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,269	12/28/2001	Axel Schumacher	R.35853	4016
2119	7590	11/17/2003	EXAMINER	
RONALD E. GREIGG GREIGG & GREIGG P.L.L.C. 1423 POWHATAN STREET, UNIT ONE ALEXANDRIA, VA 22314			SY, MARIANO ONG	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	Application No.	<span style="font-size: 1.5em;">S</span> <b>SCHUMACHER, AXEL</b>	
	Examiner	Art Unit	3683
	Mariano Sy		
<i>--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
<p>THE REPLY FILED 28 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.</p>			
<b><u>PERIOD FOR REPLY</u></b> [check either a) or b)]			
<p>a) <input checked="" type="checkbox"/> The period for reply expires <u>3</u> months from the mailing date of the final rejection.</p> <p>b) <input type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p> <p style="text-align: center;"><b>ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</b></p> <p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>			
<p>1. <input type="checkbox"/> A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.</p> <p>2. <input type="checkbox"/> The proposed amendment(s) will not be entered because:</p>			
<p>(a) <input type="checkbox"/> they raise new issues that would require further consideration and/or search (see NOTE below);</p> <p>(b) <input type="checkbox"/> they raise the issue of new matter (see Note below);</p> <p>(c) <input type="checkbox"/> they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p> <p>(d) <input type="checkbox"/> they present additional claims without canceling a corresponding number of finally rejected claims.</p>			
<p>NOTE: _____</p>			
<p>3. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.</p> <p>4. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p>			
<p>5. <input checked="" type="checkbox"/> The a)<input type="checkbox"/> affidavit, b)<input type="checkbox"/> exhibit, or c)<input checked="" type="checkbox"/> request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>see continuation sheet</u>.</p>			
<p>6. <input type="checkbox"/> The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.</p>			
<p>7. <input checked="" type="checkbox"/> For purposes of Appeal, the proposed amendment(s) a)<input checked="" type="checkbox"/> will not be entered or b)<input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p>			
<p>The status of the claim(s) is (or will be) as follows:</p>			
<p>Claim(s) allowed: _____.</p>			
<p>Claim(s) objected to: _____.</p>			
<p>Claim(s) rejected: <u>8-25</u>.</p>			
<p>Claim(s) withdrawn from consideration: _____.</p>			
<p>8. <input type="checkbox"/> The drawing correction filed on _____ is a)<input type="checkbox"/> approved or b)<input type="checkbox"/> disapproved by the Examiner.</p>			
<p>9. <input type="checkbox"/> Note the attached Information Disclosure Statement(s) ( PTO-1449) Paper No(s). _____.</p>			
<p>10. <input type="checkbox"/> Other: _____</p>			

***Response to Arguments***

1. Examiner maintains that Claims 8, 9, and 20 recite "said brief period of time of the actuation in the release direction being selected to be so short that any reduction of the braking force is imperceptible" is vague and unclear; and still rejected under second paragraph of 35 U.S.C. 112.

The method for actuating a brake assembly, as claimed, is readable on a typical anti-lock brake system wherein the brakes are actuated and released intermittently and/or repeatedly in a brief period of time, so as the wheel will not slip or lock on different road surface conditions and to maintain a constant deceleration.

Examiner maintains the rejection is proper. The method recited is relatively broad and appears to read on the well-known anti-lock brake system of Schenk et al. wherein the brakes are actuated and released intermittently and/or repeatedly in a brief or short period of time so as the wheel does not slip or lock on different road surface conditions, see col. 2, lines 56-68 and col. 3, lines 1-20.

Applicant argued in claim 9 that "nowhere in Schenk's description that there is any teaching or suggestion of a method for actuating a mechanical system, such as, a wheel brake assembly, involving friction and having a spring elasticity to increase a force exerted by the system beyond a force attainable in a quasi-static state".

The phrase "spring elasticity" is relatively broad. There is some amount of flexing on the wheel brake assembly during brake apply direction or brake release direction by the electric motor. Schenk's brake system has a mechanical connection that pressed

against the friction element that is readable as having a spring elasticity which is a relatively broad term. Applicant's argument is more specific than the claim language.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 703-308-3427.

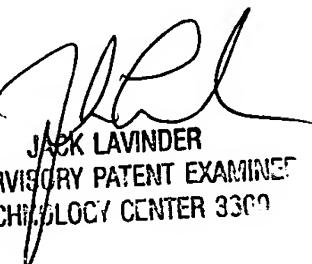
The examiner can normally be reached on Mon.-Fri. from 9:00 A.M. to 3:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

M. Sy

November 13, 2003



JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
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